

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ESTELL L. THOMAS,
Plaintiff,

v.

LOUIS DEJOY, POSTMASTER GENERAL,
UNITED STATES POSTAL SERVICE,
(Western Area),
Defendant.

Case No. 2:23-cv-00397-MMD-EJY

ORDER

Pending before the Court is Federal Defendant's Motion to Extend Time to File a Response to Plaintiff's Complaint (Third Request) in which Defendant states Plaintiff has a motion for sanctions and administrative claim on appeal pending before the Equal Employment Opportunity Office of Federal Operations (the "OFO"). ECF No. 19. Defendant says that until the appeal and motion are adjudicated Defendant should not have to respond to Plaintiff's Complaint. Defense counsel also explains she was recently asked to assist in a trial that was scheduled to commence on August 9 and 11, 2023.¹

Plaintiff responds that she has exhausted her administrative remedies as they pertain to the claim pending before the Court. Plaintiff points to her Exhibit C at 1, an email thread, in support of this statement. Exhibit C at 1, states in pertinent part: "the attached OFO Decision on Request for Reconsideration dated December 12, 2022 in Agency Case No. 4E-890-0019-18 (which the U.S. Postal Service also received) clearly establishes at the bottom of page 2 and top of page 3 that Mrs. Thomas exhausted her administrative remedies for the specific claims at issue and could proceed with the filing of her instant complaint in federal court." While nothing was attached to the email thread, the Court believes Plaintiff's Exhibit D is the December 12, 2022 correspondence to which Plaintiff refers. On page 2 of Exhibit D, it states:

¹ Defendant does not explain how there are two start dates for the trial.

1 After reviewing the previous decision and the entire record, the Commission finds
2 that the request fails to meet the criteria of 29 C.F.R. § 1614.405(c), and it is the
3 decision of the Commission to deny the request. The decision in EEOC Appeal No.
2021001289 remains the Commission's decision. There is no further right of
administrative appeal on the decision of the Commission on this request.

4 On page 3 of Exhibit D, it states:

5 This decision of the Commission is final, and there is no further right of
6 administrative appeal from the Commission's decision. You have the right to file a
7 civil action in an appropriate United States District Court within ninety (90)
calendar days from the date that you receive this decision.

8 Defendant was provided a copy of Exhibit D.

9 Plaintiff submits all that remains before the OFO is adjudication of compensatory damages
10 and equitable relief arising from a retaliation claim on which she prevailed. Plaintiff distinguishes
11 the claim in which relief remains to be adjudicated from the allegations in her current Complaint.
12 Plaintiff also states that at the time she filed her Opposition 139 days had lapsed since Defendant
13 was first served with her Complaint. Importantly, Defendant did not file a Reply to Plaintiff's
14 Opposition and, thus, offers the Court nothing disputing Plaintiff's rendition of facts.

15 Given the exhaustion of administrative remedies reflected in Plaintiff's Exhibit D, and in
16 light of Defendant's failure to reply in response to Plaintiff's Opposition, the Court finds Defendant's
17 request for an additional extension of time to respond to Plaintiff's Complaint is unsupported. In
18 sum, good cause for the requested extension is not established.

19 Accordingly, IT IS HEREBY ORDERED that Federal Defendant's Motion to Extend Time
20 to File a Response to Plaintiff's Complaint (ECF No. 19) is DENIED.

21 IT IS FURTHER ORDERED that Defendant must file a pleading responsive to Plaintiff's
22 Complaint no later than **September 6, 2023**.

23 Dated this 23rd day of August, 2023.

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25 
26 ELAYNA J. YOUCHAK
27 UNITED STATES MAGISTRATE JUDGE
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